

March 3, 2008

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Mr. Huntington, in recent months you and I have discussed certain issues pertaining to raffles conducted by political committees or political candidates. The purpose of this letter is to provide relevant guidance from the perspective of campaign finance and political practices.

1. Are political raffles legal under Montana law?

There is nothing in the statutes or rules within my jurisdiction (Title 13, Chapters 35 & 37, MCA) that specifically prohibits political committees or campaign organizations from holding raffles to raise money for political purposes. This is the advice that I typically provide, with the important *caveat* that there may be restrictions or prohibitions under the statutes and rules administered by the Montana Department of Justice and local authorities.

2. Do political committees or campaign organizations fit within the definition of “nonprofit organization”? (§ 23-5-112(27), MCA)

A permit must be issued by the board of county commissioners for each raffle conducted within its jurisdiction. (§ 23-5-413(1)(a), MCA) However, no permit is required for a raffle conducted by a “religious corporation sole or a nonprofit organization.” (§ 23-5-413(1)(c), MCA)

In addition, a “religious corporation sole and a nonprofit organization” are exempt from the requirement that a person or organization conducting a raffle own all prizes to be awarded prior to the sale of any tickets. Moreover, a religious corporation sole and a nonprofit organization are not subject to the requirement that the value of a raffle prize may not exceed \$5,000. (§ 23-5-413(2), MCA and § 23-5-413(5))

“Nonprofit organization” is defined as “a nonprofit corporation or nonprofit charitable, religious, scholastic, educational, veterans’, fraternal, beneficial, civic, senior citizens’ or service organization. . . .” (§ 23-5-112(27), MCA) Whether a political committee or a campaign organization fits within this definition is not a determination I have jurisdiction to make.

3. Is a raffle conducted to raise money for political purposes in compliance with the requirement that “proceeds. . . (b)e used only for charitable purposes or to pay for prizes”? (§ 23-5-413(6)(b), MCA.)

I do not have jurisdiction to make this determination.

3. What are the campaign reporting requirements?

Political committees, candidates, and campaign organizations who conduct raffles to raise funds must comply with all Montana statutes and rules governing the reporting of campaign contributions and expenditures. This may raise issues related to the statutory limit on aggregate (total) contributions, depending on the price paid for raffle tickets and whether a purchaser has previously contributed.

Example: Reporting the full name, mailing address, occupation, and employer is required for each person who has made aggregate contributions of \$35 or more to a candidate or political committee. (§ 13-37-229(2), MCA) If Contributor A has already made a contribution of \$20 to a candidate, and then purchases a raffle tickets for \$15 as an additional contribution to the candidate, the full name, address and other identifying information must be provided with respect to Contributor A's purchase of the raffle ticket. (See § 13-37-229(3), MCA.)

Campaign finance reports must include "an itemized account of proceeds that total less than \$35 from a person from mass collections made at fundraising events." (§ 13-37-229(8), MCA) "Mass collections" include proceeds from the sale of raffle tickets. (ARM 44.10.521(1)(a))

These two provisions *do not, however*, necessarily lead to a conclusion that all proceeds from the sale of raffle tickets that cost less than \$35 may be reported as "mass collections" without the identifying information required by § 13-37-229(2), MCA.

In addition to the requirement noted above for reporting of aggregate contributions from a person that equal or exceed \$35, limitations on aggregate contributions to candidates apply. (§ 13-37-216, MCA)

As I noted in Matter of the Complaint Against Ron Tussing (Feb. 28, 2007), at page 8:

Candidates may not accept contributions in excess of the limitations in the statute. § 13-37-216(4), MCA. Candidates therefore have an obligation to employ whatever means are necessary to ensure that any contributions they receive do not exceed the statutory limitations. This may well require monitoring contributions received during mass collections or pass the hat events and instructing potential contributors that any such contributions of less than \$35 are part of the aggregate contributions that are limited by § 13-37-216, MCA.

Candidates and political committees *have an obligation to closely monitor* the amount of aggregate (total) contributions received from contributors. The most effective way to accomplish that objective in the case of political raffles is to require everyone who purchases a raffle ticket to provide his or her full name, mailing address, occupation, and employer.

Although you did not specifically request one, please consider this an advisory opinion issued pursuant to 44.10.201, ARM. This letter concerns application of the statutes and rules administered by the Commissioner to the specific activities discussed herein, within the context of the facts presented by your inquiry. This letter is not a waiver of any right the Commissioner has to investigate and enforce statutes and rules within the Commissioner's jurisdiction.



Dennis Unsworth
Commissioner of Political Practices